

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA  
COURT FILE NO.: CV - \_\_\_\_\_**

John C. Bergquist III

Plaintiff,

v.

Harrison Ross Byck, Esquire P.C.

Defendant.

**COMPLAINT**

**JURY TRIAL DEMANDED**

**JURISDICTION**

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d).
2. This action arises out of Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA").
3. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendant transacts business here.

**PARTIES**

4. Plaintiff John C. Bergquist III is a natural person who resides in the City of Champion, County of Westmoreland, Commonwealth of Pennsylvania, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).
5. Defendant Harrison Ross Byck, Esquire, P.C. (hereinafter "Defendant Byck") is a law firm and a collection agency operating from an address of 229 Plaza Blvd., Ste. 112, Morrisville, Pennsylvania and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

### **FACTUAL ALLEGATIONS**

6. Plaintiff allegedly incurred a financial obligation that was primarily for personal, family or household purposes, that went into default for late payment, and is therefore a “debt” as that term is defined by 15 U.S.C. § 1692a(5), namely, a credit card, which was used by Plaintiff to make personal purchases of food, clothing, and shelter-related items.
7. The Plaintiff’s alleged debt was consigned, placed or otherwise transferred to Defendant for collection from Plaintiff, when thereafter Plaintiff started receiving collection communications from Defendant in an attempt to collect this debt.

#### ***Messages left on Plaintiff’s answering machine***

8. On or about May 29, 2007, the following message was left on Plaintiff’s answering machine by this Defendant:

This message is for Mr. John C. Bergquist III to contact Harrison Ross Byck’s office when you receive this message. This call is concerning personal business that you now have \_\_\_\_\_ handled through our office. We can be reached at 1-888-275-6399. Again...Harrison Ross Byck’s office for John C. Bergquist III. It is probably best that we do speak with you concerning this matter... Phone us right back.

9. This call from Defendant Byck to Plaintiff was a collection communication in violation of 15 U.S.C. § 1692e(11) the FDCPA.

#### ***Contacting Plaintiff after Receiving Refusal to Pay Notice***

10. By certified letter dated May 14, 2007, the Plaintiff advised Defendant Byck that he disputed the subject debt and refused to pay the same. A true and correct copy of the May 14<sup>th</sup> letter is attached hereto as Exhibit “A”.
11. Defendant Byck received the May 14<sup>th</sup> letter on May 17, 2007. A true and correct copy of the green card is attached hereto as Exhibit “B”.

12. Despite receiving the Plaintiff's letter, Defendant Byck left a message on Plaintiff's answering machine on May 29, 2007 attempting to collect the alleged debt.
13. This call from Defendant Byck to Plaintiff was a collection communication in violation of 15 U.S.C. § 1692c(c).

### **CAUSE OF ACTION**

#### **COUNT I.**

#### **VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT**

##### **15 U.S.C. § 1692 et seq.**

14. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
15. The foregoing intentional and negligent acts and omissions of the Defendant constitute a violation of the FDCPA including, but not limited to, each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.
16. As a result of each and every Defendant's violations of the FDCPA, Plaintiff is entitled to statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from the Defendant herein.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that judgment be entered against the Defendant:

#### **COUNT I.**

**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

**15 U.S.C. § 1692 et seq.**

- for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against the Defendant and for Plaintiff;
- for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against the Defendant and for Plaintiff.

Respectfully submitted,

Dated: June 7, 2007

**JEFFREY L. SUHER, P.C.**

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**Attorney for Plaintiff**